

Testimony on House Bill 4171

Before the House Judiciary Committee

February 1, 2006

Testimony of Terri L. Stangl

tstangl@ccj-mi.org

CENTER FOR CIVIL JUSTICE

320 South Washington, 2nd Floor

Saginaw, Michigan 48607

Voice: (989) 755-3120 Fax: (989) 755-3558

Chairman VanRegenmorter and members of the Judiciary Committee:

My name is Terri Stangl and I am the Executive Director of the Center for Civil Justice (CCJ). CCJ is a non-profit law firm with offices based in Saginaw and Flint that represents low income persons and helps organizations that work with low-income persons.

Prior to working for the Center for Civil Justice I worked as both a staff attorney and then as a manager for Legal Services of Eastern Michigan, where a great deal of my work, and the work of the attorneys I supervised, was landlord tenant advocacy. I was involved in representing thousands of tenants in eviction matters, either directly as counsel or indirectly through supervision of the staff attorneys in my office.

The Center Civil Justice opposes House Bill 4171 because it would create an unjustified and unfair windfall for landlords. Our reasons are listed below.

1. HB 4171 allows landlords to claim more than their actual damages.

Traditionally, in contractual relationships, the damages are limited to actual out-of-pocket expenses. A landlord tenant relationship is a contractual relationship, whether or not there is a written lease. House Bill 4171 expands that type of damages that are collectable in a way that is not normally permitted in contracts.

2. HB 4171 does not protect consumers from landlords who exaggerate the cost of their repairs

The bill creates incentives for landlords to exaggerate the number of hours taken to do repairs. Landlords who have no out-of-pocket cost could claim any amount of hours, without any documentation of the extent of damage or the quality of the repair work. Unscrupulous landlords could claim that they did the work themselves in an effort to collect more than they actually paid a third party for the work .

3. The risks of excessive or fraudulent claims are greater in landlord-tenant cases, which are largely uncontested

Most tenants in eviction proceedings are low income. They do not have the money to pay the rent, and often cannot obtain legal representation because legal aid offices do not have enough attorneys to meet the demand for help. These individuals are also often unable to attend court hearings because they work at part-time or entry-level jobs that do not offer leave time. As a result, many tenants cannot attend eviction actions. When one party appears in court without any opposition, this increases the

likelihood that the nature of the damages, the extent of repairs, and the time needed for repairs could be inflated. In most cases, if a case is “uncontested” because a tenant does not appear in court, the Judge will not question the Landlord’s statement concerning the amount of damages.

4. District Courts are ill equipped to make determinations about “standard industry wages” for different types of repairs as a part of summary proceedings

Summary proceedings are designed to be quick means for landlords to recover property and actual damages related to a simple contract claim. The bill would make the proceedings vastly more complicated by requiring courts to determine a “standard injury wage” for each type of repair that is made. It is completely unclear how courts or landlords would establish this information with consistency and reliability.

5. HB 4171 does not protect consumers from landlords who take longer than a skilled tradesperson in making the repairs.

HB 4171 would allow landlords to charge for their actual time “at a rate the court determines to be reasonable based on standard industry wages.” So if the rate for a specific type of repair person is \$10.00 per hour, the landlord could collect \$200 for a repair for 20 hours of work on a repair that would have taken a professional only 10 hours (\$100) to complete.

6. The Bill is one-sided and benefits only landlords.

Although we believe that HB 4171 should be opposed for the reasons stated above, it should also be noted that the Bill is unfair because tenants are not able to claim damages for the time they spend making repairs. I know from experience that tenants often spend time taking care of repair problems because their landlords do not. Tenants may repair windows, paint walls, fix plumbing, etc. Currently tenants can charge landlords for their out-of-pocket expenses or if they pay someone to do these repairs, if they give the landlord an opportunity to correct the problem and the landlord does not do so. However, tenants cannot charge landlords for the tenants’ own labor. Landlords should not be accorded a right to collect for their labor unless tenants are afforded an equal right – especially since there is no requirement that landlords give tenants advance notice and a chance to correct the repair problem before charging the tenant for the landlord’s time. .

CONCLUSION

Landlords already have ways to protect themselves against property damage. They can deduct repair costs from a tenant's security deposit. They can obtain insurance for their property. HB 4171 allows a set of damages that go beyond what is generally allowed in contract claims and would permit completely unverifiable and excessive claims for damages.

The Center for Civil Justice urges this committee to oppose the bill.